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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,405	12/12/2003	Jane Smith Parker	190250-1690	2122
38823 7590 09/21/2007 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/ AT&T BLS Intellectual Property, Inc. 100 GALLERIA PARKWAY SUITE 1750 ATLANTA, GA 30339			EXAMINER DANNEMAN, PAUL	
			ART UNIT 3627	PAPER NUMBER
			MAIL DATE 09/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/735,405

**Applicant(s)**

PARKER, JANE SMITH

**Examiner**

Paul Danneman

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Status of Claims

1. This action is in response to the application filed on 12 December 2003.
2. Claims 1-22 have been examined.

### Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. **Claims 1-22** are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claims 7-8, 10, 12-16, 21-23, and 25-30 of copending Application No. 11/314,045**. Although the conflicting claims are not identical, they are not patentably distinct from each other because **both applications are based on generating an efficiency report**. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 3-15, and 19-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDuff et al., US Patent 6,490,350 B2.

**Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

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**Claims 1, 3, 7, 8, 9, 14-15, 17, and 19:**

With regard to the limitations:

- ***Obtaining and using a set of switching statistics from a communication switch database to determine the quantity related performance of an operator;***
- ***Obtain a set of work statistics to determine the quality related performance of an operator;***

McDuff et al. in at least Column 1, lines 33-42, lines 60-67 and Column 2, lines 1-8 discloses a computerized monitoring system for monitoring telephony resources, gathering raw data from the switching mechanism in a call center; with the ability to gather status information and statistics regarding the calling activity of agents within the call center. Therefore, it would be obvious, at the time of the invention, to a person of ordinary skill in the art to determine that McDuff et al. produces statistics equivalent to applicant's invention.

McDuff et al. does not specifically disclose the following limitations per se:

- ***Determine an operator efficiency parameter by integrating switching and work statistics;***
- ***Determine when operator efficiency parameter exceeds an expected efficiency parameter.***

However McDuff et al. in at least Column 3, lines 5-8 discloses gathering statistics regarding agent calling activity and in at least Column 3, lines 18-26 further discloses some of the information regarding an agent's average handling time, average work time, average talk time, etc. McDuff, et al. in at least Column 3, lines 27-33 still further discloses that the monitoring server provides an automated way to gather useful statistics, classify the statistical data and generate reports useful for a supervisor or other manager. Therefore, it would be obvious, at the time of the invention, to a person of ordinary skill in the art to conclude that McDuff et al. collects and manipulates statistical call center agent work related information and produces reports useful to a supervisor and manager to manage the personnel related activities of a call center.

**Claims 4-6, 10-13, and 20-22:**

With regard to the limitations:

- Communication switch statistics are from a POTS;
- Operator quality parameters are for telephone calls from customers;
- Operators may be of any job grade level.

McDuff et al. in at least Fig. 1, Column 3, lines 35-65 discloses a portion of a telecommunications network of a call center connected to a public switched telephone network (PSTN) and in at least Column 4, lines 17-22 and Fig. 1 further discloses that the call/telephony integrated monitoring server is connected to an automated resource management system(ARMS).. McDuff et al. in at least Column 3, lines 27-33 further discloses some of the operator quality and quantity parameters related to telephone calls from customers and for business clients that are collected. McDuff et al, in at least Column 5, lines 63-67 still further discloses that statistics may be for agents, supervisors, business clients, and call status encompassing the whole of the call center operation. Therefore, it would be obvious at the time of the invention, to a person of ordinary skill in the art to acknowledge that a PSTN is sometimes referred to as the Plain Old Telephone Service (POTS) and that the operator related statistics in a call center are relative operators regardless of their grade level and that McDuff et al. fully discloses all the limitations of the applicant's invention.

7. **Claims 2, 16 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDuff et al. as applied to **claims 1, 3-17 and 19-22** above, and further in view of Stuart et al., US Publication 2001/0032120 A1.

**Claims 2, 16 and 18:**

McDuff et al. does not specifically disclose the following limitations:

- ***Bonus payment to an operator;***

However, Stuart et al. in at least Paragraph [0009] discloses a system for evaluating call agent efficiency and the agent cost data and determining a cost based performance indicator. Stuart et al. in at least Paragraph [0054] discloses that the evaluation of a call agent's efficiency could enable management to introduce a valid 'pay for performance' system. Therefore, it would be obvious, to a person of ordinary skill in the art to ascertain that a 'pay for performance' system encompasses a bonus payment and that a call center owner would be motivated to modify McDuff et al.'s monitoring statistics with Stuart et al.'s call agent productivity and reward system to minimize lost productivity (Stuart et al., Paragraph [0006]).

**CONCLUSION**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Danneman whose telephone number is 571-270-1863. The examiner can normally be reached on Mon-Fri. 7AM – 5PM EST with alternate Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

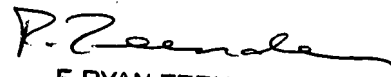


Paul Danneman

Patent Examiner

GAU 3627

13 September 2007

 9/17/07

F. RYAN ZEENDER  
SUPERVISORY PATENT EXAMINER